

ver, Diamonds, Jewels, precious Stones, or Merchandize, shipped or loaded on board such Ship or Vessel, or on account of any Fraud, Abuse, or Maleversation, of and in such Master and Mariners respectively; but that it shall and may be lawful to and for every Person or Persons, so injured or damaged, to pursue and take such Remedy for the same, against the said Master and Mariners respectively, as he or they might have done before the making of this Act.

I. Owners of Ships, after 24 June, 1734, liable only to forfeit the Ship, with its Appurtenances, and Freight, for Imbezzelements committed without their Knowledge.

II. If several Proprietors suffer by such Imbezzlement, and the Value of the Ship, &c. be not sufficient to compensate their Loss, their Proportions to be determined by Average. And the Freighters or Owners may exhibit a Bill for discovering the Amount of such Losses, &c.

III. Part-Owners exhibiting such Bill, to annex an Affidavit to the Bill, that they do not collude with the Defendants.

IV. This Act not to lessen any Remedy which the Person aggrieved hath by Law against the Master or Mariners for Imbezzelements.

But see now the Act of Congress, March 3, 1851,¹ entitled *An Act to limit the liability of Ship-Owners, &c.*, which was passed in consequence of the case of the *N. J. Steam Navigation Co. v. the Merchants' Bank*, 6 How. 344.

The first section exempts ship-owners from liability for loss or damage to the cargo from fire, unless caused by their design or neglect, but any other special contract may be made, by which, it seems, is intended an express contract; at least a local usage cannot add to words, which do not express it, a liability from which the Act discharges the owner, *Walker v. Transportation Co.*, 3 Wallace, 150.

The second section provides that if any shipper of platina, gold, gold dust, silver, bullion, or other precious metal, coins, jewelry, bills of any bank or public body, diamonds or other precious stones, shall lade the same on board any ship, &c., without, at the time of such lading, giving to the master, or agent, or owner of the ship, receiving the same, *a note in writing of the true character and value thereof* to be entered in the

¹ This act has been largely extended by amendments and additions from time to time. See U. S. Comp. Stats. secs. 4282-4289. A discussion of this legislation and of the decisions thereon which, since the leading case of *Norwich Co. v. Wright*, 13 Wall. 104, have been very numerous, is obviously beyond the scope of this book. See *Benedict's Admiralty*, sec. 518 *et seq.*; 36 Cyc. 407, *et seq.*

The principle of limited liability has been recognized and applied in Maryland irrespective of statute. *Stirling v. Nevassa Co.*, 35 Md. 128. But this is against the best considered authority. See *The Scotland*, 105 U. S. 29; *The Rebecca*, 20 Fed. Cas. No. 11, 619.